BEFORE THE KANSAS BOARD OF PHARMACY

In the Matter of)	Case No. 17-131
Theresa Capaldi)	
14-102625)	
)	

SUMMARY ORDER OF DENIAL

NOW on this \(\frac{1}{NOW} \) day of September, 2017, comes before the Kansas Board of Pharmacy (the "Board"), through its Executive Secretary, the matter of Theresa Capaldi, ("Applicant"), for application for a Kansas pharmacy technician application.

Pursuant to the authority granted to the Board by the Kansas Pharmacy Act, K.S.A. 65-1625, et seq., and in accordance with the Kansas Administrative Procedure Act, K.S.A. 77-501, et seq., the Board's Executive Secretary enters this Summary Order of Denial in the above-captioned matter. After reviewing the application materials and being otherwise duly advised in the premises, makes the following findings, conclusions and order.

FINDINGS OF FACT

For purposes of this order, the Board's Investigative Member makes the following findings of fact:

- 1. On March 30, 2017, the Board received Applicant's application for registration as a pharmacy technician in the State of Kansas ("Applicant's Application").
- 2. As part of Applicant's Application she answered "Yes" to the question: "Have you ever been convicted of (includes plea of guilty or no contest) a criminal offense or is there any criminal charge now pending against you (other than minor traffic violations) in any state

or federal court whether or not a sentence was imposed, suspended, or diverted? This includes misdemeanors."

- 3. Applicant included a completed S-150 Personal History Form with her Application, explaining the conditions leading to several arrests.
- 4. In her S-150, Applicant details events surrounding two theft arrests and a possession of marijuana arrest, as well as explaining the attendance of counseling programs that were mandated by the court after these arrests.
- 5. The background report provided to the Board by the Kansas Bureau of Investigation reports the following offenses:
 - a. 2004 Theft by Deception
 - b. 2006 Theft
 - c. 2015 Felony Possession of Opiate / Other Stimulant
 - d. 2015 Possession of Paraphernalia
 - e. 2016 Failure to Appear

CONCLUSIONS OF LAW

- 6. That pursuant to K.S.A. 65-1663, the Board may limit, suspend, or revoke a registration or deny an application for issuance or renewal of any registration as a pharmacy technician on any ground which would authorize the board to take action against the license of a pharmacist under K.S.A. 65-1627, and amendments thereto.
- 7. That pursuant to K.S.A. 65-1627(a)(2), the Board may deny the granting of a license to a licensee who fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust.

8. Pursuant to K.S.A. 65-1627(a)(3), the Board may deny the granting of a license

to an Applicant who has been found guilty of unprofessional conduct.

9. Pursuant to K.S.A. 65-1626(sss), unprofessional conduct means conduct likely

to deceive or harm the public.

10. Applicant's various arrests involving theft and possession of narcotics, and lack

of sufficient evidence of rehabilitation is a basis to deny Applicant's Application for failure to

comply with K.S.A. 65-1627(a)(2) and K.S.A. 65-1627(a)(3).

11. Though Applicant demonstrated several rehabilitation efforts, both the nature of

the offenses as well as the recent felony narcotics charge present a potential danger to the

public if the individual was placed in a pharmacy technician setting.

ORDER

Based upon the foregoing findings of fact and conclusions of law, Applicant's

Application is hereby DENIED.

NOTICES

Applicant is hereby notified as follows:

12. Applicant may request a hearing pursuant to the Kansas Administrative

Procedure Act by filing a written request with the Kansas Board of Pharmacy, 800 SW

Jackson, Suite 1414, Topeka, KS 66612-1231 within fifteen (15) days after service of this

order.

13. If a hearing is not requested as described above, the Order denying Applicant's

Registration as a pharmacy technician shall become a final order of the Board, effective upon

the expiration of the time to request a hearing.

14. Within fifteen (15) days after entry of a final agency order, either party may file a petition for reconsideration pursuant to K.S.A. 77-529.

15. Within the time limits established in K.S.A. 77-613, either party may seek judicial review of a final agency order, pursuant to said statute. The agency officer designated to receive service of a petition for judicial review is

Alexandra Blasi, JD, MBA Executive Secretary Kansas Board of Pharmacy 800 SW Jackson, Suite 1414 Topeka, KS 66612

IT IS SO ORDERED.

Date

Alexandra Blasi, JD, MBA Executive Secretary Kansas Board of Pharmacy

CERTIFICATE OF SERVICE

I hereby certify that I did, on the _____ day of September, 2017 deposit in the United States Mail, postage prepaid, a copy of the foregoing Summary Order of Denial, properly addressed to the following:

Theresa Capaldi 625 N Mathewson Ave Wichita, KS 67214

Kansas-Board of Pharmacy Staff